

REMARKS

This application was filed with 58 claims. Claims 1-37 and 53-58 were previously cancelled. Claims 46-58 were previously withdrawn. Claim 59 was previously added. Claims 39, 43, and 45 have been allowed. Claims 38, 40-42, 44 and 59 have been rejected. Therefore, Claims 38-45 and 59 are pending in the Application. Reconsideration of the application based on the remaining claims as amended and arguments submitted below is respectfully requested.

Claim Rejections - 35 U.S.C. § 102(b)

Claims 38, 40-42, 44 and 59 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Balch.

The Office Action alleges that Applicant fails to explain the difference in a DX system versus other conventional heat pump heating systems and, consequently has rejected Claims 38, 40-42, 44, and 59 because the Examiner finds that Balch pertains to a DX heat pump system. Applicant fully repeats and incorporates by reference all prior arguments, and respectfully requests the Examiner to review Pages 1-8 of Applicant's Specification, as well as the patents cited by Applicant therein, wherein more than ample distinguishing features are fully and correctly explained. After such a review, it will be apparent to one skilled in the art that the Balch designs are not applicable to a DX heating system, but are instead applicable only to a conventional air-source heat pump system design only.

The rejection of Claims 38, 40-42, 44 and 59 under 35 U.S.C. § 102(b) should be withdrawn.

Claim Rejections - 35 U.S.C. § 103

Claim 41 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Balch. Applicant submits that Balch does not relate to DX systems. In addition, Applicant submits that the invention of Claim 41 has met a long felt but unmet need for increased operational efficiencies in DX systems. This is supported by the Declaration of B. Ryland Wiggs which is being filed concurrently with this Response.

Allowable Subject Matter

Claims 39, 43 and 45 are allowed.

Applicant has commented on some of the distinctions between the cited references and the claims to facilitate a better understanding of the present invention. This discussion is not exhaustive of the facets of the invention, and Applicant hereby reserves the right to present additional distinctions as appropriate. Furthermore, while these remarks may employ shortened, more specific, or variant descriptions of some of the claim language, Applicant respectfully notes that these remarks are not to be used to create implied limitations in the claims and only the actual wording of the claims should be considered against these references.

Pursuant to 37 C.F.R. § 1.136(a), Applicant petitions the Commissioner to extend the time for responding to the December 5, 2005, Office Action for 3 months from March 5, 2006, to June 5, 2006. Applicant encloses herewith a check in the amount of \$510.00 made payable to the Director of the USPTO for the petition fee.

The Commissioner is authorized to charge any deficiency or credit any overpayment associated with the filing of this Response to Deposit Account 23-0035.

Respectfully submitted,



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CERTIFICATE OF FIRST CLASS MAILING

I hereby certify that this Response and Amendment in Application Serial No.10/616,701 having a filing date of July 10, 2003 and a check in the amount of \$510.00 are being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on June 5, 2006.

Mark J. Patterson

Signature

Registration Number 30,412

Date